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UNCLAS E F T O SECTION 01 OF 02 RANGOON 000393

SIPDIS

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SUBJECT: BURMA'S NATIONAL CONVENTION: INK FOR THE RUBBER
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Classified By: COM Carmen Martinez for Reasons 1.4 (b,d)

1. Summary: Members of the National Convention Convening Work Committee demonstrate scant appreciation for the guiding principles and mechanics of constitution drafting. There is no indication the planned drafting process will involve genuine dialogue, negotiation, debate, or collaboration. By all appearances, the SPDC and their proxies on the Work Committee, and not the delegates to a reconvened National Convention, will unilaterally address fundamental issues such as separation of powers, state and local authority, and individual rights. The role of a reconvened National Convention, it appears, will be to simply bless the finished product, one that ensures a preeminent governing role for the military. End Summary.

2. On March 25, Emboffs and a PD-sponsored speaker, a senior U.S. judge, met with three members of the National Convention's "Convening Work Committee." The committee is a 35-member group of senior GOB officials, appointed by SPDC Chairman Senior General Than Shwe in October 2003, that has the nominal task of preparing draft constitutional language for a reconvened National Convention. Chief Justice U Aung Toe chairs the committee and at least seven deputy ministers are among its members.

3. Our interlocutors from the Convening Work Committee were committee secretary U Thaung Nyunt and members Dr. Tun Shin (Deputy Attorney General) and Dr. Thaung Nyunt (Ministry of Health advisor). Thaung Nyunt described the committee's objective as "formulating and approving the basic principles for a new constitution." He said that potential delegates to a reconvened National Convention will be allowed to make proposals on the draft constitution, but that the Work Committee "will give them the facts," implying that any proposal would have to fit a pre-determined framework determined by the SPDC.

4. According to the Work Committee members, the GOB intends to use the 1993-1996 National Convention, which collapsed with inconclusive results, as the starting point for the drafting of a new constitution and the reconvening of a new Convention. The National Convention initially had 702 delegates and, according to Thaung Nyunt, "suffered a number of casualties" and concluded with only 543 delegates. (Note: A number of political parties, including the NLD, and ethnic groups withdrew in protest over a lack of democratic practices in drafting a new constitution and were subsequently banned from the Convention. End Note)

5. The Work Committee members said that the 1993-1996 National Convention had already identified chapter headings and 104 "fundamental principles" for a new constitution. Furthermore, of the 15 chapters, the suspended Convention had already completed work on the "detailed basic principles" of the first six, including the State fundamental principles, the State structure, the Head of State, the Legislature, the Executive, and the Judiciary. A reconvened National Convention, the members said, would not make any changes to the chapter headings, to the "progress achieved" on the first six chapters, or to the 104 principles.

6. The task of a new Convention, Thaung Nyunt intimated, would be simply to sign off on the final nine chapters and on the overall constitution. There will be no voting at the reconvened National Convention, he said, "Our job is to avoid the disintegration of the Union and our objective is to reach a consensus within the Convention." Thaung Nyunt declared that the Convention "will be a success, because we have made a considerable effort." On timing, he would only say that an announcement on the reconvening of the National Convention would take place "in the very near future."

7. We pressed the Work Committee members to describe steps the GOB has taken to address the shortcomings of the 1993-1996 National Convention, which failed to produce a new constitution. "Res ipso locutor," said the Deputy Attorney General, "things speak for themselves and you will see the results soon." We also asked if the Committee had reviewed existing constitutions to draw on the experience of other countries. Thaung Nyunt said that the GOB is not ignoring other constitutions, but declined to identify any models or

examples.

Comment: Just Sign On the Dotted Line

18. Many potential delegates to a reconvened National Convention have held out hope that the SPDC's "road map to democracy" may actually create opportunities for genuine dialogue, negotiation, debate, and collaboration in crafting a new constitution that addresses fundamental issues such as separation of powers, state and local authority, and individual rights. Our conversation with members of the Convening Work Committee, which reports directly to SPDC leaders, revealed no consideration for such a process.

19. Key details of several constitutional issues not fully addressed in 1993-1996 are still unresolved, including the role of the Armed Forces, elections, and the rights and duties of the citizenry. However, the Work Committee views the basic principles that address these issues as set in stone, including language that states the Tatmadaw (Armed Forces) "has the right to independently administer all affairs concerning the forces" and "has the right to take over and exercise State power" in any undefined emergency that "could cause disintegration of the Union." A reconvened National Convention, it appears, will be expected to bless a constitution that ensures a preeminent governing role for the military.

Martinez